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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,424	04/15/2004	Douglas Willard	6450-03	6505

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GOWAN INTELLECTUAL PROPERTY
1075 NORTH SERVICE ROAD WEST
SUITE 203
OAKVILLE, ON L6M-2G2
CANADA

EXAMINER

PARSLEY, DAVID J

ART UNIT PAPER NUMBER

3643

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/824,424	Applicant(s) WILLARD, DOUGLAS	
	Examiner David J. Parsley	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,8-12 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,8-12 and 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9-21-06 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 4-5, 8-12 and 15-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 1, the limitations of the retaining member being normally biased to the closed position as seen in line 31 is not found in applicant's disclosure.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 8, 10, 16-17 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,161,839 to Ward.

Referring to claim 1, Ward discloses a fishing rod support comprising, a restriction member – at 9-12, comprising a substantially vertical elongated member – at 8-9, having a vertical longitudinal axis – see figure 2, and a vertical opening – see at 10-11 in figure 2, from one end of the member – see figure 2, which vertical opening extends substantially along the vertical axis – see figure 2, and is configured to receive a rod portion of a fishing rod – see figure 3 where the lower portion of the rod – at B is received in the restriction member, which fishing rod comprises an elongated handle section – see at B in figure 1, an elongated rod portion – at B forward of the reel as seen in figure 1, a reel section – see figure 1, and a reel support portion extending from the rod portion or the handle section to the reel section – see between the handle and reel in figure 1, and having a longitudinal axis extending along the handle section and the rod portion – see figure 1, so that the rod longitudinal axis of the rod portion is substantially perpendicular to the vertical axis of the restriction member – see figures 1 and 3, and the vertical opening substantially limits rotational movement of the rod portion about the vertical axis – see figures 1 and 3, wherein the vertical opening is substantially tapered opening – see at 10-11 in figure 2, extending from the upper end of the restriction member and tapering down to a point at

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a location disposed between the upper and lower ends of the restriction member – see at 10-11 in figure 2, the restriction member having at least one guidepost – at 6, extending perpendicularly from the restriction member – see figure 3, and a retaining member – at 2,D,7, coaxial to and operatively coupled to the restriction member – see figures 1-3, so that the retaining member slides along the vertical axis of the restriction member – see via items 6,7,10,11 in figures 2-3, and has a wall section which defines a horizontal opening – see proximate 7 in figure 3, along the side of the retaining member – see figure 3, the horizontal opening being an opening on one side of the retaining member and disposed at a position between the upper and lower ends of the retaining member – see figures 2-3, and a slot – housing item 6 as seen in figure 3, extending from or near the top of the retaining member to a point between the upper and lower ends of the retaining member – see item 3, the slot of the retaining member is adapted to engage the at least one guidepost – at 6 of the restriction member – see figure 3, and wherein the retaining member is relatively movable between a substantially closed position in which the restriction member blocks the horizontal opening and prevents access to the vertical opening through the horizontal opening – see figure 3 where the retaining member is at its lowermost position with respect to the vertical opening, and an open position in which the restriction member does not block the horizontal opening, so that access to the vertical opening through the horizontal opening is available – see figures 2-3 where the retaining device is capable of being at the uppermost portion of the vertical opening – at 10-11, and wherein the retaining member is normally biased to the closed position – see figure 3, and an upward vertical movement of the rod portion of the fishing rod along the vertical axis and in a direction perpendicular to the longitudinal axis of the rod portion moves the retaining member from the closed position to the open position whereby

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removal of the rod portion of the fishing rod from the vertical opening through the horizontal opening and thus from the fishing rod support is possible – see figures 1-3.

Referring to claim 4, Ward discloses the retaining member – at D, is substantially tubular – see figures 2-3.

Referring to claim 8, Ward discloses a ground engager – at G, configured to releasably secure the support to the ground – see figure 1.

Referring to claim 10, Ward discloses the support further comprises a mount – at C or F.

Referring to claim 16, Ward discloses the horizontal opening is defined so as to have an upwardly angled upper surface so that the rod portion slides upwards and outwards when exiting from the restriction member – see proximate 6,7 in figure 1.

Referring to claim 17, Ward discloses a plurality of guideposts – see at 6-7 in figures 1-3.

Referring to claim 19, Ward discloses the slot – proximate 2,6, extends to the top of the retaining member – see figures 1-3.

Referring to claim 20, Ward discloses the slot on the retaining member is located opposite the horizontal opening – see figures 1-3.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward as applied to claim 4 above, and further in view of U.S. Patent No. 4,827,654 to Roberts.

Referring to claim 5, Ward does not disclose the restriction member is substantially tubular. Roberts does disclose the restriction member – at 56, is substantially tubular – see figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Ward and add the tubular restriction member of Roberts, so as to allow for the device to be easily assembled and disassembled.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward as applied to claim 8 above, and further in view of U.S. Patent No. 4,656,774 to Terrill.

Referring to claim 9, Ward does not disclose the ground engager is an auger bit. Terrill does disclose the ground engager is an auger bit – at 14,16 – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Ward and add the ground engager of Terrill, so as to allow for the device to be securely held to the ground while allowing for the device to be easily removed from the ground.

Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward as applied to claim 10 above, and further in view of U.S. Patent No. 4,827,654 to Roberts.

Referring to claim 11, Ward does not disclose a fishing rod handle holder having a pocket for receiving a fishing rod handle, wherein the pocket has a pocket axis which forms an angle of deflection to the vertical, and wherein the fishing rod support further comprises a neck portion, and the neck portion forms an angle which is substantially supplementary to the angle of deflection. Roberts does disclose a fishing rod handle holder – at 10,12,14,18, having a pocket for receiving a fishing rod handle – see at 10-14 in figure 1, wherein the pocket has a pocket axis

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which forms an angle of deflection to the vertical – see figure 1, and wherein the fishing rod support further comprises a neck portion – at 36, and the neck portion forms an angle which is substantially supplementary to the angle of deflection – see figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Ward and add the handle holder of Roberts, so as to allow for the device to securely hold the rod in place during use.

Referring to claim 12, Ward as modified by Roberts further discloses the mount – at 16 of Roberts, is configured to engage the pocket – see figure 1 of Roberts. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Ward as modified by Roberts and add the mount of Roberts, so as to allow for the device to securely hold the rod in place during use.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward as applied to claim 1 above.

Referring to claim 15, Ward does not disclose the vertical opening is a V-shaped slot extending from one end of the restriction member. However, changing a shape over that of the prior art does not overcome the prior art in that it would have been obvious to one of ordinary skill in the art to take the device of Ward and add the opening being v-shaped, so as to allow for the fishing rod to be securely held into the device and to allow easy insertion and removal of the fishing rod from the device.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward as applied to claim 1 above, and further in view of U.S. Patent No. 4,827,654 to Roberts.

Referring to claim 18, Ward does not disclose the horizontal opening on the retaining member is a substantially multiple curved opening. Roberts does disclose the horizontal opening

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on the retaining member – at 10,12,14,18, is a multiple curved opening – see figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Ward and add the multiple curved opening of Roberts, so as to allow for easy insertion and removal of the rod from the device.

Response to Arguments

5. Applicant's arguments with respect to claims 1, 4-5, 8-12 and 15-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David Parsley
Patent Examiner
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